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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,000	07/09/2001	Teruo Kamada	SHM/12585	6853

7609 7590 11/18/2002

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EXAMINER

FISCHMANN, BRYAN R

ART UNIT

PAPER NUMBER

3618

DATE MAILED: 11/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/901,000

Applicant(s)

KAMADA, ET AL

Examiner

Bryan Fischmann

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Sep 30, 2002
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above, claim(s) 4-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Jul 9, 2001 is/are a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some\* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 3 6) ☐ Other:

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*Acknowledgments*

1. The Election (paper 6) filed 9-3-2002 has been entered.

*Election/Restriction*

2. On paper 5, a restriction to one of the following inventions was made under 35 U.S.C. 121:

- I. Claims 1-3, drawn to a vehicular body panel, classified in class 280, subclass 69.2.
- II. Claims 4-8, drawn to a method (claims 4-6) and apparatus (claims 7 and 8) for manufacturing the body panel, classified in class 29, subclasses 505 (method) and 564.1 (apparatus).

Applicant's election without traverse of Invention I in Paper No 6 is acknowledged.

Claims 4-8 are thereby withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 6.

Applicant is thereby requested to cancel the claims (4-8) drawn to Invention II.

An action on the merits of Invention I, claims 1-3 follows.

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*Specification*

3. The abstract of the disclosure is objected to because of the following:

A) The use of the terms “reconciled”, “raw” and “intimate” when read in context are considered awkward and unclear.

4. The disclosure is objected to because of the following:

A) The following recited phrases are unclear, awkwardly worded, and/or grammatically incorrect:

Note: The specification is considered replete with objections, particularly awkward and unclear matter. Therefore, a complete listing of all objectionable matter cannot be guaranteed. Applicant is advised to thoroughly review the specification for any objectionable matter.

1) Although not strictly objectionable, it is noted that the Applicant recites the term “bonnet” throughout the specification in lieu of the more commonly used term “hood”. While this is not strictly objectionable, as the Applicant may be his own lexicographer, it is also noted Applicant uses the term “hood frame” three times on sheet two. To avoid confusion, it is requested Applicant consistently use either the term “bonnet” or “hood” throughout the specification.

2) Line 20 of sheet 3 recites “tail gate”. The meaning of this term, when read in context is considered unclear. See also lines 27 of sheet 3, lines 4 and 7 of sheet 4 and line 7 of sheet 5.

3) The last two lines of sheet 5 are considered awkward and unclear.

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- 4) Line 6 of sheet 6 recites "to cope with a characteristic of the blank material".

The meaning of this phrase is considered unclear, particularly the word "cope".

- 5) The word "intimate" on line 9 of sheet 6 is considered awkward.

See also line 3 of sheet 15 and line 19 of sheet 16.

- 6) The term "reconciled" on line 20 of sheet 6 is considered awkward.

See also lines 1 and 23 of sheet 7, lines 1, 2, 12, 15 and 24 of sheet 8, lines 4, 5 and 15 of sheet 12, line 22 of sheet 20, line 14 of sheet 21 and line 12 of sheet 22.

- 7) Line 15 of sheet 7 has misspelled the word "first".

8) It is believed that the recitation of "FIG. 6" on line 26 of sheet 10 should instead be "FIG. 16".

9) The last three lines of sheet 11 and first two lines of sheet 12 are considered to be awkward and unclear.

- 10) The recitation of "raw" on line 17 of sheet 12 is considered unclear.

11) The meaning of the term "dynamic action" on line 21 of sheet 12 is considered unclear.

12) The recitation of "true circle" on lines 9, 10 and 25 of sheet 14 is considered awkward and somewhat unclear.

See also lines 13, 14 and 16 of sheet 15.

- 13) Line 9 of sheet 15 is considered awkward and unclear.

14) The last line of sheet 16 is considered awkward and unclear.

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15) The meaning of the first line of sheet 17 is considered unclear and also appears to be missing wording at the end of the line.

16) Line 20 of sheet 17 is considered awkward.

17) Line 13 of sheet 19 ("is waited") is considered unclear.

18) Line 15 of sheet 20 recites "In FIG. 14B, the blank material 155A". Figure 14B fails to illustrate reference number 155A.

19) The recitation of "in custody" on line 18 of sheet 22 is considered awkward.

20) The word "tact" on line 23 of sheet 22, when read in context, is considered unclear.

21) Lines 13 and 19 of sheet 23 recites "In FIG. 4B". No such Figure exists in the Instant Application.

22) The purpose and meaning of the "three dots" on lines 4 and 19 of sheet 24 is considered unclear.

B) The following inconsistencies in nomenclature were noted:

1) Line 25 of sheet 20 recites "reconciling means 160". Line 26 of sheet 20 recites "caulking mechanism 160".

To avoid confusion to the reader, and to facilitate identifying components by nomenclature in the claims, it is requested Applicant use consistent nomenclature for the same reference number throughout the specification.

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*Claim Objections*

5. Claims 1-3 are objected to because of the following:

A) Claim 1 recites the limitation “a blank material having a formed portion”.

This recited phrase is objected to, as it implies that the blank material also has an “unformed” portion. The recitation of “blank material” is best understood to correspond to reference number 12 of Figure 1. It would seem that the “blank material”, reference number 12, has had it’s entire surface, or volume “formed”, as opposed to only a “portion” of the surface. For example in order to produce reference number 12 on Figure 1, the finished shape of reference 12 on Figure 1 has to be “formed” by processes such as forging, cutting, stamping, etc. It would appear that these processes would occur over the entire area, or “volume”, of reference number 12, as opposed to only a “portion”.

B) Although not strictly objectionable, as Applicant may be his own lexicographer, it is noted that the term “bonnet” recited in claim 2 is more commonly referred to as a “hood”. However, if Applicant prefers to use the term “bonnet”, this term is acceptable.

C) The recitation of “both side edge portions of the inner skin” in claim 3 is objected to, as the Applicant has failed to yet establish “directional orientation” of the blank material.

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*Claim Rejections - 35 USC § 112*

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 1-3 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicants regard as their invention.

A) Claim 1 recites "A vehicular body panel...comprising...a backing plate...having at least one aperture...to cope with a characteristic of the blank material".

When read in context, the meaning of the word "cope" is considered unclear, particularly when "coupled" with the term "characteristic" in the same phrase.

B) Claim 1 recites "a blank material having a formed portion...and...a backing plate joined to the blank material...".

The term "blank material" is understood to correspond to reference number 12.

Claim 2 then recites "wherein the vehicular body panel comprises an inner skin...".

Claim 2 is dependant upon claim 1.

Claim 3 then recites "...wherein both side edge portions of the inner skin have the backing plates...".

Claim 3 is dependant upon claim 2.

The term "inner skin", as best understood, also corresponds to reference number 12, although this is not completely clear.



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Therefore, it is unclear whether the term “blank material” recited in claim 1 corresponds to the same structure as the term “inner skin” in claims 2 and 3.

Additionally, the recitation of “the backing plates” in claim 3, lacks antecedent basis, as it has not yet been established until this recitation that there are two backing plates.

Note that Section 608.01 (o) and 2173.05(a) of the MPEP requires that nomenclature used in the claims be apparent from the specification, unless it is apparent from the prior art.

Note that Section 608.01(g) of the MPEP also recites “The description is a dictionary for the claims and should provide clear antecedent basis for all terms used in the claims”.

C) Claim 3 recites “...wherein both side edge portions of the inner skin have the backing plates, respectively, in a widthwise direction of the vehicle body”.

It is considered unclear when read in context, what is being referred to by the term “widthwise direction” in the above recitation. Is Applicant trying to state that the backing plates are “transversely aligned” on the inner skin? Or is Applicant claiming that the backing plates themselves are “oriented” in a “widthwise direction”? Note that Figure 1 shows the backing plates (13) “oriented” in a “longitudinal direction”.

For purposes of examination, any backing plates that are “longitudinally oriented” and “transversely aligned” will also be assumed to be in a “widthwise direction”.

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*Claim Rejections - 35 USC § 103*

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-3, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayata, US Patent 5,115,878.

Hayata teaches a vehicular body panel or component comprising;

a blank material (3) having a formed portion (entire portion of blank - see claim objection portion of this Office Action); and

a backing plate (12) joined with the blank material (Figure 2) and having at least one aperture ("inner" portion of 12a) corresponding to the formed portion (12 is affixed to 3, as noted, all portions of 3 are "formed") to cope with a characteristic (see following comments) of the blank material.

Hayata fails to explicitly state how the bonnet, or hood is additionally fastened to the vehicle. Knowledge of this is necessary in order to best determine what characteristics are "coped" with.

However, Hayata teaches that the hood is affixed to the body by hinges on each rearward side of the hood, as is common on most passenger vehicles, such as automobiles. Additionally, the Examiner takes Official Notice that a latch is commonly utilized in the front center of the

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hood to releasably secure the hood to the vehicle. Almost any conventional automobile passenger sedan manufactured in the last 50 years will provide a teaching of this. A latch at the center front portion of the hood is advantageous in that allows the hood to be releasably attached to the vehicle. This allows the hood to remain firmly attached to the vehicle when the vehicle is being driven and for the hood to be opened when the vehicle is stopped for servicing of components within the engine compartment underneath the hood.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a center latch in the hood of Hayata.

Regarding the claim 1 recitation "...a backing plate joined with the blank material and having at least one aperture corresponding to the formed to cope with a characteristic of the blank material", the Examiner offers the following:

The hood of "combination hood" of Hayata and Examiner's Official Notice has two rearward hinges and a center latch to affix the hood to the vehicle. The "backing plate" is the "hinge reinforcement plate" (12) of Hayata. The backing plate has at least one aperture (12a - inner portion). The purpose of this aperture is to allow the use of fasteners (19 and 20) to secure the backing plate, the blank material and the hinge (18) together. The purpose of the "backing plate" is which is described as a "reinforcement" on lines 4 and 5 of column 3 of Hayata, is to "reinforce" the "blank material" to prevent "plastic deformation" when opening and closing the hood when the "latch" is released.

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Since the hood is likely opened and closed by a user applying a force from the front, after release of the latch, a large bending stress is created where the blank material meets the forward portion of the hinge. Were it not for the presence of the reinforcing, or backing plate (12) of Hayata, the blanking plate (3) of Hayata would possibly be subjected to a bending stress large enough to cause plastic deformation, especially after many openings and closings of the hood, when the hinges may become slightly deformed and are likely not as well lubricated as when they were new. While the presence of the backing plate does not eliminate the bending stress in the blank material, as shown on Figure 2, the backing plate extends forward beyond the most forward part of the hinge (18) to a reinforcing rib (3) of the blank material to reduce the level of bending stress in the blank material in the vicinity of the forward area of the hinge below what it would otherwise be were the backing plate not present.

As noted, the backing plate "aperture" is located corresponding to a "position" in the "formed" portion of the blank material, since the entire blank material is formed. As also noted, the purpose of the aperture is to allow the backing plate to be securely attached to the blank material and hinge. As further noted, the backing plate is present to prevent plastic deformation of the blank material. Plastic deformation is an unwanted result of a "characteristic" of the blank material, the "characteristic" including strength of material (i.e. yield strength) of the blank material and area moment of inertia of the blank material.

See also the 112 2nd portion of this Office Action for claim 1.

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Regarding claim 2, see Figure 2. See also the 112 2nd portion of this Office Action for claim 2.

Regarding claim 3, see lines 49-51 of column 3. See also the 112 2nd portion of this Office Action for claim 3.

### *Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- A) Bement - teaches deformations in bend of welded assembly
- B) VanDell - teaches hood hinge structure
- C) Mair, et al - teaches hood structure for vehicle
- D) Miller - teaches apertures in vicinity of bend in welded assembly
- E) Flagg - teaches hood structure for vehicle
- F) Ssakai, et al - teaches hood structure for vehicle
- G) Nushii, et al - teaches hood structure for vehicle
- H) Japanese Patent 58-211974 - teaches hood structure for vehicle
- I) Japanese Patent 59-6174 - teaches hood structure for vehicle
- J) Japanese Patent 3-61180 - teaches hood structure for vehicle
- K) Japanese Patent 3-61181 - teaches hood structure for vehicle

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11. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Bryan Fischmann whose telephone number is (703) 306-5955. The examiner can normally be reached on Monday through Friday from 7:30 to 4:00.

If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Brian Johnson, can be reached on (703) 308-0885. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

 11-14-2  
**BRYAN FISCHMANN**  
**PATENT EXAMINER**